

ment of the boundaries thereof; re-appropriating for said purpose the unexpended balance of Twenty Thousand (\$20,000) Dollars appropriated for said purpose by Chapter 35, General Laws, passed at the Regular Session of the 42nd Legislature, and limiting the time in which said appropriation may be expended to prior to June 1st, 1932, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal only.

HORNSBY, Chairman.

By Gainer

S. B. No. 19.

A BILL
To Be Entitled

An Act amending Section 5 of Chapter 15, Local and Special Laws, Acts Second Called Session, Forty-first Legislature, relating to the creation of the Brazos River Conservation and Reclamation District and the establishment of the boundaries thereof; reappropriating for said purpose the unexpended balance of Twenty Thousand Dollars appropriated for said purpose by Chapter 35, General Laws, passed at the Regular Session of the Forty-second Legislature, and limiting the time in which said appropriation may be expended to prior to June 1st, 1932, and declaring an emergency. Be it enacted by the Legislature of the State of Texas:

Section 1. That Section 5 of Chapter 15, Local and Special Laws, passed at the Second Called Session of the Forty-first Legislature, be amended so as to hereafter read as follows:

Sec. 5. The area of said District is hereby established to comprise the whole of all counties lying wholly or in part in the watershed of the Brazos River and its tributary streams as the same is made certain by the State contour maps now on file in the office of the State Board of Water Engineers. It is provided, however, that the boundaries of said District as hereby established, shall control until June 1st, 1932, the actual boundaries of the area within the said watershed so that the same

may be expressed in written calls of the metes and bounds of said watershed.

Sec. 2. The appropriation of Twenty Thousand Dollars (\$20,000), made by Chapter 35, General Laws, passed at the Regular Session of the Forty-second Legislature, to the Board of Water Engineers for stream measurement and topographic survey, or as much thereof as may remain unexpended, to be used during the fiscal year ending August 31st, 1931, be and the same is hereby re-appropriated for the purpose for which said appropriation was originally made, to be expended by said Board of Water Engineers at any time prior to June 1st, 1932.

Sec. 3. The fact that the State Board of Water Engineers was unable to complete the survey of the actual boundaries of the Brazos River Conservation and Reclamation District within the time provided by law because of insufficient funds, and the further fact that the sufficient funds were appropriated at the Regular Session of the Forty-second Legislature for the purpose of continuing and completing the survey, but said appropriation will expire on August 31st, 1931, without said survey having been completed, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it so enacted.

THIRTEENTH DAY

Senate Chamber,
Austin, Texas,
August 3, 1931.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Greer.
Berkeley.	Hardin.
Cousins.	Holbrook.
DeBerry.	Hopkins.
Gainer.	Hornsby.

Loy.	Rawlings.
Moore.	Russek.
Neal.	Small.
Oneal.	Stevenson.
Parrish.	Thomason.
Patton.	Williamson.
Poage.	Woodruff.
Pollard.	Woodul.
Purl.	Woodward.

Absent—Excused.

Cunningham. Parr.
Martin.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Gainer.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By Senator Stevenson:

S. B. No. 23, A bill to be entitled "An Act amending House Bill No. 943, passed at the Regular Session of the 42nd Legislature of the State of Texas, being Chapter 159, page 311 of the Special Laws of the State of Texas; repealing all laws in conflict with said Act, and declaring an emergency."

Read and referred to Committee on State Affairs.

By Senators DeBerry and Woodruff:

S. B. No. 24, A bill to be entitled "An Act amending Section 1, Sub-division 4, of Chapter 212, House Bill 251, as passed by the Regular Session of the Forty-second Legislature so as to provide that hereafter no tax, direct or indirect, shall be imposed on those engaged in selling farm products."

Read and referred to Committee on Agricultural Affairs.

By Senator Gainer:

S. B. No. 25, A bill to be entitled "An Act for the purpose of conserving petroleum, one of the natural resources produced in this State, and placing in effect Sec. 59a of Article 16 of the Constitution of the State of Texas, by providing that every person, firm, partnership, corpora-

tion, association, or any receiver thereof, shall pay to the State a graduated production tax on the daily production of each petroleum well in this State, providing for the creation of a department within the Comptroller's department for the administration of this Act, and declaring an emergency."

Read first time and referred to Committee on State Affairs.

Senators Excused.

The following Senators were excused for the day on account of important business:

Senator Parr, on motion of Senator Hornsby.

Senator Martin, on motion of Senator Stevenson.

Senator Cunningham, on motion of Senator Woodward.

Minority Report Substituted.

On motion of Senator Gainer, the minority report on S. B. No. 5 was substituted for the majority report.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, Aug. 3, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 12, A bill to be entitled "An Act providing that it shall be unlawful to throw, cast, discharge or deposit crude petroleum, salt water and certain other substances in or on any stream, water course or other body of water of this State; providing that salt water may be discharged into the tidal waters of this State, and that sulphur water, when so treated that it is not harmful to aquatic life or marine organisms, may be deposited in the tidal waters of this State; providing for the enforcement of this act, disposition of fines, and fees of the arresting officer; and providing that it shall be cumulative of all other laws on this subject, and declaring an emergency."

H. B. No. 21, A bill to be entitled "An Act amending Section 5 of Chapter 15, Local and Special Laws. Acts of Second Called Session, Forty-first Legislature, relating to the creation of the Brazos River Conservation and

Reclamation District and the establishment of the boundaries thereof; reappropriating for said purpose the unexpended balance of \$20,000 appropriated for said purpose by Chapter 35, etc., and declaring an emergency."

H. B. No. 23, A bill to be entitled "An Act providing for the leasing of the river bed of the Sabine River for oil and gas, authorizing the Governor, Land Commissioner and Attorney General to negotiate and execute leases either with or without drilling obligations; providing for the disposition of funds derived from such leases; providing for certain appropriations and for things necessary and incidental thereto, and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

S. C. R. No. 6.

Senator Oneal sent up the following resolution:

Whereas, the tax laws of the State of Texas are a series of separate and in many instances incoherent measures enacted at different times and are not when taken as a whole grounded on a sound and fair basis as to the various taxable values existing within the State; and

Whereas, the growth of new industries in the State and the change in conditions of other industries and taxable values in the State demand a careful study of conditions as they now exist to the end that taxation may be equalized within the spirit that provides in the State Constitution that "taxes shall be equal and uniform"; and,

Whereas, on account of the deplorable condition of the oil business and of the farming and cattle industries of this State, revenues of the State are cut down several million dollars thus making it imperative that the regular session of the 43rd Legislature shall take prompt action to correct the serious situation with reference to taxes and with reference to revenues for the support of the State government; and,

Whereas, owing to the importance and magnitude of this subject it is impracticable and impossible at the present session of the Legislature

fairly to consider and readjust and equalize the taxes; and,

Whereas, there is a general demand over the State for a fair and just equalization of the taxes that must be levied to provide the revenue necessary to the proper and economical operation of the State Government;

Therefore, be it Resolved, By the Senate of Texas, The House of Representatives concurring:

That a committee of seven persons, to be known as the Legislative Tax Survey Committee, be created, as follows:

During the present session of the Legislature or within ten days thereafter, the President of the Senate shall appoint as members of this Committee, three members of the Senate, and the Speaker of the House of Representatives shall appoint as members of this Committee, four members of the House. Said presiding officers shall be authorized to fill any vacancies that may occur on said committee.

That the duties of the committee shall be prescribed generally as follows:

The committee, if appointed before this Session of the Legislature adjourns, shall meet in the Capitol in Austin before the Session of this Legislature adjourns, otherwise on October 20th thereafter, and shall organize by electing one of its members Chairman and another Secretary, and such other officers as may be necessary; and shall at said meeting determine upon and fix a place and a date for its next business meeting.

The committee shall adopt such rules and regulations as are necessary to carry out the provisions of this resolution.

The committee shall be provided with a committee room in the Capitol in Austin and its sessions shall be open to the public except at such times as the committee may by majority vote determine to hold an executive session.

The committee shall begin its work at its second meeting and shall continue its sessions and investigations as may be determined by a majority vote of the committee until its work has been completed; but it shall conclude its investigations and make its

report to the regular session of the 43rd Legislature.

The committee herein provided shall have free access to all books and records in the several departments of the State Government and of any other political subdivision of the State.

The committee shall also have the power to require from all persons, firms and corporations in this State, such information as it may desire with reference to the properties and tax burdens being borne by same.

The committee shall have the power to issue such process as necessary to compel the attendance of witnesses or production of books, records or other information as may be desired by it in the proper discharge of its duties.

The committee shall make a careful study of the subject of revenue and taxation with special reference to the problems presented in Texas and with special reference to the comparative burdens of taxes as borne by the various industries and taxable values. And the committee may secure information as to the revenue and taxation laws and the effects of its laws in other States; and may gather such other information and study the same as in the opinion of the committee will aid in arriving at a fair plan of taxation in the State of Texas.

The committee shall have power and authority to employ and compensate all necessary experts, investigators, stenographers and other clerical help and it shall be the duty of said committee to make and keep a record of its investigations and of all funds expended by it and to whom paid and the amounts thereof. It shall not be the duty however of said committee to keep a stenographic report of all information or investigations made by it but it shall have the authority to keep such record as it may deem advisable.

The report of the committee, as herein provided, shall make such recommendations, as to legislation, as may, in its judgment, be necessary to secure sufficient funds for a proper and economical administration of the departments of government, education and eleemosynary institutions and as will, as nearly as possible,

fairly and equitably and impartially distribute such burdens against its citizens and their property and make a reality of the Constitutional provision that "taxes shall be equal and uniform."

The members of the committee shall receive no compensation for the performance of their services as members of the committee, but they shall receive during the time they actually serve their travelling expenses, including hotel, telegraph, telephone, postage and express expenses incurred in the discharge of their duties, and the committee shall be authorized and empowered to purchase such stationery and other supplies as may be necessary for the discharge of their duties.

There is hereby appropriated from the contingent fund of the 42nd Legislature the sum of \$7,500, or so much thereof as may be necessary for the purpose of defraying the expenses of the committee hereby created, including publication of— copies of the committee report and the distribution of same to the members of the Legislature, and the heads of State Departments, and to such other citizens of the State of Texas as the committee may decide.

Provided further that all expenditures of such committee shall be made upon the sworn account of the persons entitled to such pay, when approved by the chairman and secretary of the committee. The secretary shall file with the State Comptroller of Public Accounts a statement showing in detail the expenditures made by such committee and the amounts and to whom all payments were made.

ONEAL.

The resolution was read and, on motion of Senator Purl, referred to Committee on State Affairs.

House Bills Referred.

H. B. No. 12 referred to Committee on State Affairs.

H. B. No. 21 referred to Committee on Mining, Irrigation and Drainage.

H. B. No. 23, referred to Committee on Mining, Irrigation and Drainage.

Messages from the Governor.

The Chair recognized the Doorkeeper, who introduced a messenger from the Governor with the following messages:

Executive Office,
Austin, Texas, August 3, 1931.
To the Forty-second Legislature:

The revenues of this State have been seriously depleted because of the low prices of oil since our production tax is based on two per cent of the value of the oil produced. Unless the Legislature takes some necessary steps, it will result in a very much lower income to the State from this source than in years gone by. I think that you should amend this law to provide that there should be levied a tax of two cents per barrel on crude oil, which would bring in the same amount as the present production tax of two per cent on oil at \$1.00 per barrel.

I am attaching hereto a proposed bill which I feel if enacted will bring about the desired condition of the finances of this State.

Respectfully submitted,
R. S. STERLING, Governor.

Executive Office,
Austin, Texas, August 3, 1931.
To the Forty-second Legislature:

This session of the Legislature was called in response to many telegrams, letters, petitions, telephone calls and personal appeals, urging that the Legislature be convened in special session to consider the problem of conserving our natural resources. I have heretofore submitted to you these matters in a short general way. You have wisely devoted a considerable portion of your time to the hearing of facts bearing upon the general subject and I delayed sending you a further message until you had completed those hearings, feeling that every fact bearing on the general subject should be before the Legislature before it undertook to write a law.

At the time this session was convened many cases were pending in the courts attacking the constitutionality of our conservation laws and particularly the validity of the orders of the Railroad Commission which had been made under those laws. Since this session convened a Fed-

eral Court, composed of Circuit Judge Hutchison, and District Judges Bryant and West, has given us in the case of *McMillan vs. Railroad Commission* our first written opinion construing these laws. This was one of the cases involving the validity of our conservation laws and of the orders of the Railroad Commission. Therein the validity of the laws was before the court, and it had the opportunity to pass upon the question as to whether they were constitutional or unconstitutional. At the time the opinion was written, the court, knowing that the Legislature was in session, it may reasonably be assumed that if the court had thought the laws were invalid, would have held so as to give this Legislature an opportunity to eliminate and correct any cause for invalidity. The court having failed to do this, we are justified in assuming that our existing conservation laws are valid. In this case, that court also construed "economic waste" as also meaning and including "market demand," holding that the Legislature in prohibiting the consideration of "economic waste" prevented that Commission from considering "market demand" in making its orders.

It appeals to me, in view of this decision of the United States Court, that it would be unwise to attempt radical changes in our existing laws. Any attempt at their amendment or modification should retain their general structure and ideas and not inject changes that would invite any new attacks upon them. I think it prudent that these statutes be only made plainer, so as to further define "physical" waste, if necessary, and supplemented with more adequate and expeditious procedural provisions.

These laws were designed to prevent physical waste only and expressly inhibit the consideration of economic waste. This idea should be cautiously preserved. All price fixing attempts must be avoided.

The court pointed out in this case that the Railroad Commission is not given the power to limit the production of oil to the "market demand." I, of course, gladly accept the decision because to me it is sound from an economic point of view. Certainly,

if our laws permitted the Railroad Commission, or any other body, to prohibit the production of oil in excess of the market demand, it would tend to bring about a condition where the oil interests of this State might create a monopoly in this important part of the people's business. I repeat now what I have often said, namely, that I am opposed to the passage of any law that would have a tendency toward price fixing.

I advocate the creation of a new commission to enforce these laws, together with all laws enacted, for the protection of our natural resources.

(1) In my opinion, this commission should be appointive rather than elective.

(2) A provision that all persons charged with the duty or empowered to enforce existing conservation laws and orders of the commission, passed pursuant thereto, must be no other than the regular employees of the State, and provisions should be made to give the commission the necessary funds to employ sufficient men to enforce its orders. The present policy of entrusting the enforcement of the orders of the commission to persons who are paid by the contributions of the operators in the field is unsound and unworkable. And further define, if necessary, "physical" waste so as to strengthen the conservation laws.

(3) To provide for the speedy trial of all law suits that are brought attacking the validity of the orders of the commission entered under the conservation laws.

(4) To strengthen the ratable taking or common purchaser act so as to make it possible and practicable for every one to secure an outlet for his oil.

The oil business is something in which many more people are interested than just the companies and men who are producing and marketing oil. We sell to the outside, five times as much oil as we use; and we receive at this time less than one-fifth of the taxes which we ought to collect from this source.

The people of this State must be protected from any tendency toward monopoly in this important part of the public's business, and any law

which you might pass, if I could see in it anything tending, or that might result in a monopoly, I would, of course, feel constrained to veto such bill without ceremony. The ultimate and sole end of all legislation upon these subjects by this Legislature should be the conservation of these natural resources.

In this day of combinations of capital and mergers of industries, the anti-trust laws of Texas have become of multiplied importance. Their enforcement must be looked after more scrupulously than at any time before in the history of our State. I compliment any effort of the Attorney General in reference to this question. The House of Representatives is worthy of the congratulations of the people of Texas for passing the \$30,000.00 appropriation for the Attorney General's Department. I hope that the Senate will pass the bill at their earliest convenience. And I pledge to the Attorney General the full cooperation of the entire Executive Department in relation to all activities pertaining to the enforcement of the anti-trust laws.

I am indeed mindful of the critical situation which confronts the farmer. No man in Texas is more anxious than I to help bring about a situation which will improve their condition, and I, therefore, urge that if, in your judgment, any legislation can be enacted which will tend to solve their problems, or better their condition, that you give your careful thought to the same.

Six million people in Texas are to be considered in the enactment of legislation. No bill should be passed which will shift any burden from those most able to pay to the shoulders of those who are least able to pay.

I recognize the necessity for legislation along lines and upon subjects which have not been submitted by me. The time is short for you to consider the legislation now before you. I am in hopes that you will make progress, to the end that within a few days I may see my way clear to submit to you other subjects of vital interest.

Respectfully submitted,

R. S. STERLING, Governor.

The message was read.

Senator Purl moved that 1000 extra copies of the Senate Journal for today be printed. The motion prevailed.

Simple Resolution No. 14.

Senator Oneal sent up the following resolution:

Whereas, in the "My Home Town" oratory contest for high school students, conducted by the West Texas Chamber of Commerce, Joe Wither- spoon of Wichita Falls won at the recent convention at Lubbock in competition with students from many other towns representing the territory extending from Dalhart to Del Rio and from Austin to El Paso; and,

Whereas, in said contest he won: a silver loving cup offered by Tom H. Ethridge, Jr., of San Antonio, and \$100.00 in gold offered by C. M. Caldwell of Abilene, and a scholarship offered by the Texas Christian University; and,

Whereas, it is the desire of all concerned to promote interest in this worthy contest;

Therefore, be it resolved by the Senate of Texas, that Joe Wither- spoon be extended the courtesy of the Senate, and be invited to deliver in the Senate on Friday August 7th at 11:00 o'clock A. M., his address entitled "My Home Town" and that the donors of the prizes won by him in said contest be invited to make the awards of said prizes at that time.

ONEAL,
RAWLINGS,
WILLIAMSON.

Read and adopted.

At Ease.

On motion of Senator Moore, the Senate, at 10:55 o'clock a. m., stood at ease subject to the call of the Chair.

In Session.

The Senate was called to order at 2 o'clock p. m., by Lieutenant Governor Edgar E. Witt.

Simple Resolution No. 15.

Senator Hornsby sent up the following resolution:

Whereas the Austin Chamber of Commerce has invited the Senate and

Ladies to be guests on Tuesday evening, August 4th, for a swim, water- melon feast and dance at beautiful Barton Springs; and

Whereas the Legislature has already enjoyed many happy occasions as the guests of this organization, and this particular event bids fair to outshine them all; and

Whereas a personal invitation and tickets have been sent to all;

Therefore be it Resolved: That each member of the State Senate make an especial effort to attend this function, and as a token of appreciation, and our acceptance of the invitation, that this Resolution be printed in the Journal.

HORNSBY.

Read and adopted.

Message from the Governor.

The Chair recognized the Door- keeper who introduced a messenger from the Governor with the follow- ing message.

Executive Office,

Austin, Texas, August 3, 1931.

To the Members of the Senate, Forty- second Legislature.

Subject to your confirmation I have re-appointed Honorable Earle P. Adams of Houston County, Texas, to succeed himself as Chairman of the Industrial Accident Board for the next ensuing statutory term.

Respectfully submitted,

R. S. STERLING, Governor.

Read and referred to Committee on Governor's Nominations.

Adjournment.

On motion of Senator Moore, at 2:10 o'clock p. m., the Senate ad- journed until 9:30 tomorrow morn- ing.

APPENDIX.

Committee on Engrossed Bills.

Committee Room,

Austin, Texas, July 31, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on En- grossed Bills, have had S. B. No. 20, carefully examined and compared and find same correctly engrossed.

HARDIN, Chairman.

Committee Reports.**(Majority Report.)**

Committee Room,
Austin, Texas, August 3, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, a majority, of your Committee on State Affairs, to whom was referred

S. B. No. 5, A bill to be entitled "An Act to regulate Texas State commerce by oil pipeline agencies, gas pipeline agencies, oil and/or gas purchasing agencies and persons, firms or corporations operating in the purchase, production, distribution, sale or transportation of crude oil and its products, natural gas and its products and artificial gas."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do not pass.

MOORE, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, August 3, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, a minority, of your Committee on State Affairs, to whom was referred

S. B. No. 5, A bill to be entitled "An Act to regulate Texas State commerce by oil pipeline agencies, gas pipeline agencies, oil and/or gas purchasing agencies and persons, firms or corporation operating in the purchase, production, distribution, sale or transportation of crude oil and its products, natural gas and its products and artificial gas."

Have had the same under consideration, and beg leave to differ with the majority and recommend that S. B. No. 5 as substituted be passed and be not printed in lieu of advance printing.

GAINER,
STEVENSON.

Committee Room,
Austin, Texas, August 3, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 14, A bill to be entitled "An Act creating the Conservation Commission of Texas to be composed

of three men; providing the qualifications of its members, their terms of office, their method of appointment, and their salaries, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed in lieu of advance printing.

MOORE, Chairman.

Amend S. B. No. 14 by striking out the figures 1-4 of 1c wherever it appears and insert in lieu thereof the figures 1-8 of 1c.

MOORE, Chairman.

Committee Room,
Austin, Texas, August 3, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 3, A bill to be entitled "An Act to amend Article 4644 of the Revised Civil Statutes of the State of Texas of 1925, relating to the issue of an injunction, or temporary restraining order, prohibiting surface drilling or mining operations on the application of an adjacent landowner, claiming injury to the surface, or improvements, or loss or injury to the minerals thereunder; so as to provide for protectful, uneconomical and unscientific exploitation of the same field, pool, stratum and strata, or any part thereof, to the damage and injury of value or values of any person or persons having rights and interests therein, whether on adjoining land or not; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed in lieu of advance printing.

MOORE, Chairman.

FOURTEENTH DAY.

Senate Chamber,
Austin, Texas,
August 4, 1931.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names: